



LABOR-MANAGEMENT RELATIONS BOARD
Friday, July 13, 2018
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Chairman Ted Baca
Juan Montoya
Michael Wartell

OTHERS PRESENT:

Kathleen Ahghar *Ian Stoker*
Melissa Kountz *Rocky Gutierrez*
Devon Moody *Patty French*
Jessica Enriquez

Minutes

PO Box 1293

Albuquerque

NM 87103

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- I. CALL TO ORDER.**
Chairman Ted Baca called the meeting to order. Board members Juan Montoya and Michael Wartell were also present.
- II. REVIEW AND APPROVAL OF AGENDA FOR FRIDAY, JULY 13, 2018.**
Chairman Baca stated that item IX. Merits Hearing in LB 15-29 has been settled and cancelled. Mr. Montoya moved to approve the agenda for July 13, 2018. Mr. Wartell seconded. Vote taken and passed 3-0.
- III. REVIEW AND APPROVAL OF MINUTES FOR JUNE 11, 2018.**
Mr. Montoya moved to approve the minutes for June 11, 2018. Mr. Wartell seconded. Vote taken and passed 3-0.
- IV. PUBLIC COMMENTS *Limited to three (3) minutes total time per person.**
Melissa Kountz, Assistant City Attorney stated that they City has met with the Union to discuss status on old cases and there are very little cases that are ready to go forward. She stated that the parties are ready to proceed with scheduling for LB 16-23 and LB 17-10 and asked the Board to set response deadlines for LB 17-12, LB 17-20, LB 18-08 and LB 18-09. The deadline was set by Chairman Baca for responses to be submitted by August 17, 2018.
- V. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**
None.
- VI. PRESENTMENT OF ORDERS.**
None.

VII. STATUS CONFERENCE RESCHEDULED FROM JUNE 4, 2018:

- **LB 18-02, RESPONDENT'S MOTION FOR PARTIAL SUMMARY JUDGMENT.**
Ian Stoker, Assistant City Attorney appeared on behalf of the City and stated that this matter continues to be in negotiations for settlement and the City is waiting on a response from the Union Chairman Baca stated that this matter will be scheduled for motions hearing and the parties may settle prior to then or proceed with hearing.

VIII. STATUS ON OLD BUSINESS RESCHEDULED FROM JUNE 4, 2018:

- **LB 08-10, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 624, 3022, 2962 AND 1888. (SHANE YOUTZ)**
Devon Moody, Assistant City Attorney appeared on behalf of the City and stated that the parties have agreed to dismiss LB 08-10 and she is waiting on Fred Mowrer to review and approve the proposed Order.
- **LB 08-21, STEP III GRIEVANCE ON BEHALF OF TRANSIT EMPLOYEE JULIA MOYA. (AFSCME 2962)**
Ms. Moody appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. Ms. Moody stated that the parties are reviewing an old settlement agreement from 2012 that Ms. Moya accepted and the agreement may resolve this case as well. She also stated that the City has filed a dispositive motion and the Union has not filed a response. Chairman Baca stated that the Union's response is due August 20, 2018 then this matter will be scheduled for a motions hearing.
- **LB 09-13, PROHIBITED PRACTICE COMPLAINT FOR VIOLATING THE MERITS SYSTEM ORDINANCE SECTION 3-2-9(A). (ROBERT MONTOYA)**
Ms. Kountz appeared on behalf of the City and stated that this matter was dismissed on October 24, 2017 and presented the signed Order.
- **LB 10-06, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME 624 ON BEHALF OF TRANSIT EMPLOYEES. (ROCKY GUTIERREZ)**
Ms. Kountz appeared on behalf of the City. Mr. Gutierrez appeared on behalf of AFSCME. The parties have been discussing this matter for possible resolution and will be reviewing a proposed resolution that was submitted in 2013 but was never finalized. Chairman Baca stated that this matter will be scheduled for merits hearing.
- **LBARB 11-01, ARBITRATION CONSOLIDATE WITH LBARB 11-02 AND LBARB 11-03**
Ms. Kountz appeared on behalf of the City. Mr. Gutierrez appeared on behalf of AFSCME. The parties stated that this matter has not been fully resolved and after brief discussion, Chairman Baca stated that this matter will be scheduled for merits hearing.
- **LB 11-08, STEP III GRIEVANCE FILED BY AFSCME 2962 ON BEHALF OF JENNIFER CARDONA. (ROCKY GUTIERREZ)**
Mr. Stoker appeared on behalf of the City and stated that the parties have agreed to dismiss this matter and handed the Order to the Board. The Order of Dismissal was approved and signed by the Board members.
- **LB 11-12, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME 624 ON BEHALF OF SOLID WASTE BLUE-COLLAR EMPLOYEES. (ROCKY GUTIERREZ)**
Ms. Moody appeared on behalf of the City and stated that this matter is consolidated with LB 11-36. Mr. Gutierrez appeared on behalf of AFSCME and stated that the Union is currently negotiating their contract that may resolve issues in this matter and asked the Board to reschedule for status conference.

- **LB 11-13, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF AFSCM LOCAL 624, EMPLOYEE JASON ARAGON WITHIN DEPARTMENT OF MUNICIPAL DEVELOPMENT. (ROCKGY GUTIERREZ)**
 Mr., Gutierrez appeared on behalf of AFSCME and stated that the Union has agreed to withdraw this matter. An Order of Withdraw was approved and signed by the Board members.
- **LB 11-15, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF AFSCME LOCAL 624, 1888, 2962 AND 3022. (ROCKTY GUTIERREZ)**
 Mr. Gutierrez appeared on behalf of AFSCME and stated that this matter can be consolidated with LB 12-30 and asks the Board to schedule the hearing on the same day as LB ARB 11-01, LB ARB 11-02, LB ARB 11-03 and LB 12-30 because they all have similar issues and facts. Chairman Baca stated that a merits hearing will be scheduled for all five cases on the same date.
- **LB 11-29, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF RICHARD ARAGON, AN EMPLOYEE OF ABQ RIDE. (ROCKY GUTIERREZ)**
 Ms. Kountz appeared on behalf of the City and stated that the parties have agreed to dismiss this matter. An Order of Dismissal was approved and signed by the Board members.
- **LB 11-36, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME 624 ON BEHALF OF SOLID WASTE EMPLOYEES. (ROCKY GUTIERREZ)**
 Ms. Moody appeared on behalf of the City and stated that this matter is consolidated with LB 11-12. Mr. Gutierrez appeared on behalf of AFSCME and stated that the Union is currently negotiating their contract that may resolve issues in this matter and asked the Board to reschedule for status conference.
- **LB 11-38, STEP III GRIEVANCE ON BEHALF OF ALBUQUERQUE POLICE DEPARTMENT COURT SERVICES EMPLOYEES, WORKING OUT OF CLASSIFICATION. (DEB RAINALDI)**
 Ms. Kountz appeared on behalf of the City and stated that this matter is ready to proceed with scheduling a hearing.
- **LB 11-39, PROHIBITED PRACTICE COMPLAINT AGAINST THE AFSCME FOR TRANSFER AND SENORITY ISSUES WITH ANIMAL WELFARE DEPARTMENT. (ROCKY GUTIERREZ)**
 Mr. Gutierrez appeared on behalf of the Union and stated that this matter was filed by a City employee against AFSCME regarding a seniority issue. He stated that the employee does not have jurisdiction to file before the Labor Board and he asked the Board to dismiss this matter for lack of jurisdiction. Chairman Baca stated that the Union must be given notice and suggested the Union file a Motion to Dismiss.
- **LB 12-02, PROHIBITED PRACTICE COMPLAINT FOR FAILURE TO NEGOTIATE TERMS AND CONDITIONS OF EMPLOYEMENT REGARDING CHANGES TO THE CITY OF ALBUQUERQUE COP POLICY AND THE SUBSTANCE ABUSE POLICY. (ROCKY GUTIERREZ)**
 Ms. Kountz appeared on behalf of the City and stated that the parties have submitted a Joint Motion for Clarification in this matter. Chairman Baca stated that this matter will be scheduled for motions hearing.

- **LB 12-03, PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT ON BEHALF OF JAMES MORA FOR REFUSAL TO NEGOTIATE THE REDUTION IN ROUTES, RETALLIATION AND CONTRACT VIOLATIONS. (CASEY PADILLA)**
 Ms. Moody appeared on behalf of the City and stated that the parties are currently in negotiation for a possible resolution. Mr. Gutierrez appeared on behalf of AFSCME and stated that this matter is similar to LB 11-12 and LB 11-36 and asked the Board to schedule the three cases on the same date. Chairman Baca agreed to schedule all three matters for a hearing on the same date.
- **LB 12-05, PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE PARKS AND RECREATION DEPARTMENT ON BEHALF OF DAVID ORTIZ FOR NON-NEGOTIATED MEMORANDUM BETWEEN THE CITY OF ALBUQUERQUE AND THE UNION. (CASEY PADILLA)**
 Mr. Stoker appeared on behalf of the City and stated that the parties have agreed to dismiss this matter. An Order of Dismissal was approved and signed by the Board members.
- **LB 12-14, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF CASEY PADILLA AGAINST THE CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT FOR INTENTIONS TO BYPASS THE ISSUANCE OF A NEW VEHICLE. (ROCKY GUTIERREZ)**
 Ms. Kountz appeared on behalf of the City and stated that this matter is ready to proceed with scheduling a hearing.
- **LB 12-18, PROHIBITED PRACTICE COMPLAINT FILED BY AFSMCE 2962 AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT FOR HARASSMENT AND INTIMIDATING BEHAVIOR BY SUPERVISORS. (ROCKY GUTIERREZ)**
 Ms. Kountz appeared on behalf of the City and stated that there is a pending Motion to Dismiss for this matter.
- **LB 12-20, STEP III GRIEVANCE FILED BY AFSMCE LOCAL 2962 ON BEHALF OF BIANCA CORDOVA AGAINST THE CITY OF ALBUQUERQUE TRANSIT DEPARTMENT FOR BEING DENIED COMPENSATION FOR WORK SHE PERFORMED OUTSIDE HER CLASIFICACION. (ROCKY GUTIERREZ)**
 Ms. Moody appeared on behalf of the City. Mr. Gutierrez appeared on behalf of AFSCME. Ms. Moody stated that the City filed a Motion for More Definite Statement and it was granted by the Board in September 2017, but the Board did not set a deadline for a response to be filed. She asked the Board to mandate a date for the Union to file a response. Chairman Baca stated that the Union's response is due by August 10, 2018.
- **LB 12-30, PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE FOR REFUSING TO NEGOTIATE IN GOOD FAITH WITH CERTIFIED EXCLUSIVE BARGAINING REPRESENTATIVE OF AN EMPLOYEE ORGANIZATION.**
 Mr. Gutierrez appeared on behalf of AFSCME and stated that this matter is similar to LB 11-15 and can be consolidated and asked the Board to schedule the hearing on the same day as LB ARB 11-01, LB ARB 11-02, LB ARB 11-03 because they all have similar issues and facts. Chairman Baca stated that a merits hearing will be scheduled for all five cases on the same date.

There was discussion from the Board members and all present for scheduling of future meeting dates. Ms. Kountz stated that the merits hearing in LB 15-15 regarding Jude Lujan, scheduled for July 30, 2018 has been settled and an Order should be submitted soon. She also stated that the parties are in settlement discussion for Shawn Casaus scheduled for July 31, 2018 and would no longer need to be scheduled for hearing until further notice from the parties.

The Board scheduled future meeting dates for: July 30, 2018; July 31, 2018; August 27 2018 and August 28, 2018.

IX. MERITS HEARING CONTINUED FROM MAY 29, 2018:

- **LB-15-29 PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 624 ON BEHALF OF DMD EMPLOYEE EARL PHILLIP GARCIA AGAINST THE CITY OF ALBUQUERQUE AND DEPARTMENT OF MUNICIPAL DEVELOPMENT FOR VIOLATING SECTION 24.1.3.4 OF THE COLLECTIVE BARGAINING AGREEMENT WHEN MR. GARCIA RECEIVED A FIVE (5) DAY SUSPENSION OF INSUBORDINATION AND WAS DISCIPLINED WITHOUT JUST CAUSE.**

See item II.

X. ADJOURNMENT.

Mr. Montoya moved to adjourn the meeting. Mr. Wartell seconded. Voted and passed 3-0.

APPROVED:



TED BACA, CHAIR
City Labor Management Relations Board



DATE

cc: Tim Keller, Mayor
Trina Gurule, Interim City Clerk